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Chapter A Individuals and Self-Employment Tax

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¶A-3601. Dependency tests for exemptions for dependents.

Individuals are allowed as a deduction in computing taxable income¹ an exemption amount for each individual who is a dependent (as defined in Code Sec. 152) of the taxpayer for the tax year.²

 **RIA observation:** The deduction is sometimes called the "dependency exemption."

¹

Code Sec. 151(a) .

²

Code Sec. 151(c) ; Code Sec. 151(c)(1) before amend by Sec. 206, PL 108-311, 10/4/2004 .

The amount of the deduction, i.e., the "exemption amount," is adjusted each year for inflation. For the yearly inflation-adjusted amounts, see ¶ A-3500.1 . The exemption amount is phased out for certain higher-income taxpayers, see ¶ A-3502 .

For purposes of Subtitle A of the Code (income taxes), a "dependent" means:³

... a qualifying child (¶ A-3605.2)⁴ or
... a qualifying relative (¶ A-3605.6).⁵

³

Code Sec. 152(a) .

⁴

Code Sec. 152(a)(1) .

⁵

Code Sec. 152(a)(2) .

All dependents (both qualifying children and qualifying relatives) must also satisfy:

... the joint return test, see ¶ A-3622 .
... the citizenship/residency test, see ¶ A-3623 et seq.
... the rule that a dependent is ineligible to have dependents, see ¶ A-3626 .

In addition, to get the deduction, a taxpayer must include the dependent's taxpayer identification number (TIN) on the return claiming the exemption, see ¶ A-3603 .

 **sample client letter:** A sample client letter on how to qualify to claim someone as a dependent appears in Client Letters ¶ 2385 .

 **sample client letter:** A sample client letter on claiming a dependency deduction for a foster child appears in Client Letters ¶ 2434 .

 **sample client letter:** A sample client letter on certain tax aspects of caring for an elderly individual including dependency exemptions appears in Client Letters ¶ 1389 .

The dependency exemption deduction isn't contingent upon the dependent's nonentitlement to a personal exemption deduction on the dependent's own return. Thus, the fact that a dependent may have claimed a personal exemption deduction on his or her own return (which isn't permitted, see ¶ A-3501) is irrelevant in ascertaining the taxpayer's entitlement to the deduction.⁶

⁶

Mudd, Lawrence K., (2004) TC Summary Opinion 2004-1 .

A taxpayer is allowed only one exemption for a dependent who qualifies under the above tests. The fact that a dependent is blind or over 65 doesn't entitle taxpayer to any additional exemption on that account.⁷

 **RIA observation:** An additional standard deduction is allowed to taxpayers who are aged 65 and/or blind, see ¶ A-2806 .

⁷

Reg § 1.151-2(b) .

In a case decided before the requirement that a dependent's TIN must be on the taxpayer's return (see ¶ A-3603), the Tax Court held that where an individual (e.g., a tax protester) failed to file a tax return and IRS issued a notice of deficiency for the additional tax due, IRS had to allow the taxpayer all dependency exemptions to which the taxpayer was entitled.⁸

⁸

Yoder, Robert R., (1990) TC Memo 1990-116 , PH TCM ¶90116 , 59 CCH TCM 44 .

Whether a divorced or separated parent may claim a dependency exemption for a child is determined under federal tax law, not state law. A state court order or decree does not operate to allocate the dependency exemption between parents.^{8.1}

^{8.1}

Preamble to Prop Regs, 5/2/2007 .

For the general rules on who claims the exemption for a child supported by parents who are divorced, separated, or living apart, see ¶ A-3801 et seq.

For the rules on a divorce or separation governed by a pre-'85 divorce decree or separation agreement, see ¶ A-3815 .

For the dependent status of kidnapped children, see ¶ A-3601.1 .

For tax years beginning before Jan. 1, 2005,⁹ to qualify as a dependent, a person had to meet all of the following five tests, for the calendar year in which taxpayer's tax year began: ¹⁰

- (1) *Member of household or relationship test.* To meet this test a person—if not a member of the taxpayer's household for the entire tax year—must bear a certain relationship to the taxpayer, see ¶ A-3606 et seq.
- (2) *Gross income test.* Except for a child under 19 years of age or a full-time student under age 24, a person is disqualified as a dependent under this test if that person has gross income equal to or greater than the "exemption amount," see ¶ A-3616 et seq.
- (3) *Joint return test.* A married person cannot qualify as a dependent of another taxpayer if such married person files a joint return with his or her spouse for the tax year in which the taxpayer's tax year begins, see ¶ A-3622 et seq.
- (4) *Support test.* A person qualifies as a dependent if he or she receives more than half of his or her support from the taxpayer, though this isn't necessary where a multiple support agreement applies, or in certain cases where the person is a child of divorced or separated parents. The support test is discussed at ¶ A-3701 et seq.
- (5) *Citizenship/residency test.* To qualify under this test, a person must be a U.S. citizen, a U.S. national or a resident of the U.S., Canada or Mexico at some time during the calendar year in which the tax year of the taxpayer begins, see ¶ A-3623 .

 **RIA observation:** A taxpayer who is able to take an exemption for a dependent may, as a result, qualify for other tax benefits, including the following:

- ... the favorable head-of- household tax rates, see ¶ A-1401 et seq.
- ... treatment as an unmarried individual, by a married person living apart who has a dependent child, see ¶ A-1611 et seq.
- ... the favorable surviving spouse tax rates, where the taxpayer maintains a household for his or her dependent child, see ¶ A-1702 et seq.
- ... the credit for child and dependent care expenses, see ¶ A-4312 et seq.
- ... the deduction for medical expenses the taxpayer pays for the dependent, see ¶ K-2301 et seq.
- ... the right to claim a withholding exemption with respect to each person whom an employee reasonably expects to be his or her dependent for the year, see ¶ H-4512 et seq.

⁹

Sec. 208, PL 108-311, 10/4/2004 .

¹⁰

Code Sec. 151(c) before amend by Sec. 206, PL 108-311, 10/4/2004 .

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